

With new Council funding rules, equity, if not peace-of-mind

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Please note: this is an excerpt of the original story.

In 2010, then-New York City Councilmember Larry Seabrook [was indicted](#) on 13 counts related to public corruption. An investigation by the US Attorney in New York and the New York City Department of Investigation had uncovered a complex scheme of embezzling and deception operating through a network of non-profit organizations controlled by Seabrook involving over \$2 million in City Council funds over the seven years he held office.

Hidden among funding for organizations like Mind Builders Creative Arts Center, which provides arts programming for youth, and the New York Botanical Garden, which was establishing a Bronx-wide program to establish community gardens, was funding for [three organizations](#) managed by a consultant who had worked for Seabrook in the past. These organizations paid salaries to Seabrook's acquaintances.

"He was a flagrant and serial abuser of City Council discretionary funds in a far too familiar New York tale of corruption," said US Attorney Preet Bharara in [a statement](#) announcing Seabrook's sentencing.

Seabrook's indictment occurred in the middle of a wave of cases brought by the US Attorney against City Councilmembers, their staffs and their affiliates. Between 2010 and 2013, eight individuals, including four City Councilmembers and affiliates or staffers of two more, had been indicted on charges of misusing city funds.

All of those misused funds came from a small but sizable part of the New York City expense budget called discretionary funds. Though less than one percent of the total city budget, discretionary funds totaled over \$290 million in Fiscal Year 2015. These funds, also called [Member Items](#), are allocated to councilmembers by the Speaker each year to invest as they please in local non-profit organizations that provide services in their districts.

Over the last few years, discretionary funds have come under scrutiny from New York City politicians and good government groups for their role in internal Council politics and the public corruption cases brought by the US Attorney in Manhattan.

In May, the New York City Council unanimously passed [a resolution](#) aimed at addressing some of the concerns. Months later, the discretionary funding is being spent, and an analysis of the new rules and the latest [city budget data](#) suggest that while the changes have evened the distribution of the funds allocated to districts, they have done little to curb the potential for misuse or to change spending patterns.

The biggest changes are mandatory memos from organizations that received funding describing how they used it and a requirement that the Speaker develop a formula for either distributing discretionary funds evenly, or distributing them based on levels of need, or some combination. The exact formula is to be decided by the Speaker for each year's budget. The Speaker's spending is also now capped at 50 percent of the total spending.

This year, that meant equal funding for all Councilmembers in the local initiatives, aging and youth categories. The Speaker [decided](#) to give up to \$100,000 extra to districts based on their levels of poverty. Her district, [along with four others](#), received the maximum amount of extra funding.

Much of the existing system remains in tact, however. Nonprofit organizations apply for funding directly to individual Councilmembers early in the calendar year. Applicants are screened in an opaque process by only the [Mayor's Office of Contract Services](#). That office is said to evaluate the legal nonprofit status of organizations; the organizations' ability to provide the services they are asking for funding to provide; and, for organizations requesting over \$10,000, the organizations' track record in providing services to previous funding sources, as gauged by references.

The level of attention the Mayor's Office of Contract Services is able to pay for each application is unclear. The FY2014 [disclosure of discretionary funding applications](#) has 2,782 unique entries in the "Legal Name of Organization" field. Even assuming some mistyped duplicates, if each organization took only five minutes to review, it would take an individual more than five work weeks to complete. Considering every application separately, that figure explodes to 46 weeks.

The changes fall neatly in line with suggestions made by the better government group Citizens Union in a [2012 report](#). In it, Citizens Union argued that while discretionary funds are a vital source of revenue for community organizations, and the system is fundamentally sound, the distribution of the funds is politicized and inequitable.

While running for mayor in 2013, Bill de Blasio took a different stance. Though he too objected to the politicization of the distribution of funds, he said the issues ran deeper. Referencing the US Attorney's case against a City Councilmember earlier that year, de Blasio called for the complete abolishment of discretionary funding.

"The system is broken," his [campaign website](#) read on election day. In office, de Blasio pledged to "use his power in the budget process to demand a ban on the member item system."

Despite his vehemence on the campaign trail, Member Items remained on the Executive Budget when it was formally announced. At the press conference, de Blasio fielded a question about discretionary funding: "Look, the Council and I continue to [agree to disagree](#)." ([Transcript](#))

Though the Council's resolution addresses the politicization of the distribution of discretionary funding, the issue of fund misuse has gone largely overlooked. The US Attorney's office says it has remained vigilant.

"The public corruption program is active," said James Margolin, Chief Public Information Officer for US Attorney Preet Bharara in a recent phone interview. He chuckled. "It's a target-rich environment."

Changes

Under the new rules, the Speaker's spending plan must distribute funds evenly to councilmembers or create a formula applied to every Councilmember for distributing funds according to the level of need in the community.

This year, Speaker Mark-Viverito designated \$400,000 to each Councilmember for local initiatives, \$100,000 for domestic violence initiatives, \$150,000 for youth initiatives and \$110,000 for aging initiatives.

Councilmembers also received up to an additional \$100,000 (either \$0, \$25,000, \$50,000 or \$75,000) to address poverty. The amount was determined using the 2012 five-year American Community Survey.

Initiative	Allocation per Councilmember
Local	\$400,000
Poverty	up to \$100,000
Domestic Violence	\$100,000
Aging	\$110,000
Youth	\$150,000

Overall, this amounted to over \$36.6 million for local initiatives, \$2.8 million for poverty initiatives, \$7.8 million for domestic violence initiatives, \$5.6 million for aging initiatives and \$7.6 million for youth initiatives. Spending in each of these categories remained about the same from FY2014 to FY2015, although there was a \$5 million increase in domestic violence initiatives, and the poverty initiative was a new addition this year.

Total spending in FY2015 was down \$103.3 million. Much of the difference came from a combination of reduced allocations to Councilmembers and reduced allocations to the group of Councilmembers representing the boroughs, called delegations. These delegations spent a total of \$2 million this year, down from over \$12 million last year.

Kelly Mathews, Chief Operating Officers of the New York Council of Nonprofits, a group [billing itself](#) as the "'Soapbox and Toolbox' for New York's Nonprofits," said the reduction in funding is not likely to have huge effects on the nonprofit community in New York City because many of the organizations that receive them are small.

"For a lot of them, discretionary funding may be 50 percent of their operating budget for the year, so the money is critical for allowing those services to be provided," she said in a recent phone interview.

Mathews also said the reduction in the discretionary portion of the budget has been offset by other parts of the budget, opening possibilities for nonprofits to compensate for a loss

in discretionary funding levels with grants received through the standard procurement process. Again, she said, this will present the biggest challenges to the smallest nonprofits that may not have the staff to ensure compliance with city rules, which are generally more stringent for city competitive grants.

The reallocation equalizes delegation spending per citizen, but at levels much lower than FY2014. Whereas in FY2014 the spending per person varied from \$0.60 per person in Manhattan to \$4.89 per person in Staten Island, in FY2015 each borough's delegation spent about \$0.25 per person.

These values translated to lower levels of funding across the city compared to FY2014. Manhattan Councilmembers saw the largest reduction in funding, receiving nearly 50 percent less funding in FY2014 compared to FY2015. Staten Island Councilmembers saw the smallest drop with a 15 percent reduction in funding.

Bronx Councilmember Palma had the largest loss of funding of any incumbent councilmember, receiving \$247,651 less than last year, a 7 percent drop. Palma was not present during the vote on the new rules, but Chief of Staff Mariela Salazar said Palma did not support the lowering of discretionary funding levels.

"Many groups were upset that their funding was either cut or reduced since some rely heavily on Council funding," wrote Salazar in an email recently. Still, she noted, other parts of the budget filled in gaps by funding new initiatives.

In all, [15 districts](#) received less funding than last year, with an average loss of nearly \$226,000.

On the other hand, 36 councilmembers received an average of almost \$158,000 more in discretionary funding as a result of the new rules, according to an [analysis](#) by Gotham Gazette.

Spending patterns for the funds, however, have not changed much. In their 2012 report, Citizens Union disapproved of use of council funds outside of the districts for which they are intended. Though they point out some legitimate uses (for example, funding organizations that provide services throughout the city), they suggest that the practice could lead to political considerations for Councilmembers with city-wide ambitions.

In fact, under the new rules, a [larger percentage of funding](#) allocated to each of the boroughs is spent outside that borough. This is despite the fact that FY2014 was drafted during an election year.

Continued skepticism

Despite the many efforts at reform over the last decades, liberal good government group Common Cause New York is officially opposed to the discretionary funding system.

"Political distribution of discretionary funding should be replaced by a uniform system of distribution based on objective criteria," reads Common Cause's written statement. It proposes a method where the decision-making power is ceded to city agencies, which

would evaluate applications and consider the recommendation of Councilmembers before allocating funds.

If the system is to remain in place, though, Common Cause's statement calls for an evaluation of the screening procedure, which they say has been subject to inefficiencies and lack of transparency. "We recognize and applaud the anti-fraud measures which were previously adopted to insure [sic] that recipients of discretionary funding were qualified," said the statement. "However, we recommend that the procedure for clearance of non-profit organizations be evaluated." It does not address the effectiveness of these "anti-fraud measures."

"We tend to be skeptical about Member Items," said Kelly Mathews, the COO of New York Council of Nonprofits, in a phone interview.

Mathews also conducts training sessions for organizations that receive discretionary funding at the Mayor's Office of Contract Services, the same office that evaluates organizations that apply for discretionary funds. She said she believes the screening procedures have become more rigorous over time, and that cases of misuse will fall in the coming years. Aside from general guidelines on what is to be evaluated, the screening process is not addressed in legislation.

"If anyone wants to steal funds, regardless of the oversight, it's going to be challenging to prevent people from doing it," said Mathews. Still, she added that misusing funds is "not as easy as it used to be, let's just put it that way."

When the budget was announced in May, Mayor de Blasio voiced his continued belief that the Member Item system should be eliminated. "I do think it's time to end Member Items," he said in a [press conference](#). ([Transcript](#)) "I think that's the smart path going forward. But I also respect that the Council has its own prerogatives." As of this writing, de Blasio has not called on the Council for support in fulfilling his campaign promise to eliminate them.

Still, some councilmembers have gone on the record in support of abolishing the member item system. Jumaane Williams, who represents parts of Brooklyn, spoke in opposition to member items at the [council hearing](#) for the rules changes earlier this year. (In the February meeting, he expressed his support for member items. Williams could not be reached about the discrepancy for this article.)

"I wanted just to make sure -- I was clear that I'm unhappy about the City Council has discretionary funds," he said. "I'm hoping people will begin to support this because [Member Items are] going to groups and community organizations that would not otherwise get this funding."